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REVENUE & DISASTER MANAGEMENT DEPARTMENT

NOTIFICATION

The 1st December 2009

S.R.O. No. 494/2009—The following draft of certain rules, further to amend the Orissa Government Land Settlement Rules, 1983 which the State Government propose to make in exercise of the powers conferred by Section 8-A of the Orissa Government Land Settlement Act, 1962 (Orissa Act 33 of 1962), is hereby published as required by sub-section (1) of the said Section for the information of all persons likely to be affected thereby and notice is hereby given that the said draft will be taken into consideration on or after the expiry of a period of thirty days from the date of publication in the *Orissa Gazette*.

Any objection or suggestion which may be received from any person with respect to the said draft before expiry of the period so specified will be taken into consideration by the State Government.

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1. (1) These rules may be called the Orissa Government Land Settlement (Amendment) Rules, 2009.

(2) They shall come into force on the date of their publication in the *Orissa Gazette*.

2. In the Orissa Government Land Settlement Rules, 1983, (hereinafter referred to as the said rules), for Rule 5-B following rule shall be substituted, namely :—

“5-B—Settlement of Khasmahal, Nazul, Gramakantha Paramboke, etc.

Notwithstanding anything contained in Rules 3, 5, 5-A, 8, 11, 12, 13, settlement of Khasmahal and Nazul land leased out, and Gramakantha Paramboke and Abadi land occupied, prior to 26th day of February, 2006 and used for homestead purpose shall be made in the manner prescribed in Schedule-V”.

3. In the said rules, Schedule-V shall be substituted by the following Schedule namely :—

SCHEDULE -V

(See Rule 5-B)

Rules for Settlement of Gramakantha Paramboke, Abadi, Khasmahal and Nazul Lands for homestead purpose.

1. Persons eligible for settlement—(a) A person who is in possession of Gramakantha Paramboke or Abadi (Basti) land in exercise of customary right or usage or has acquired possession of such land by way of transfer, through a registered deed of conveyance, from a person who was in lawful possession of such land in exercise of customary right or usage ; and

(b) A person who is in possession of Khasmahal or Nazul land on the basis of lease granted by the Government, whether renewed or expired, or a registered sub-lease including subsequent sub-lease granted by the lessee or the sub-lessee, as the case may be, or by way of transfer of such land, through a registered deed of conveyance, from a lessee, sub-lessee or subsequent sub-lessee shall be eligible for settlement of land in his favour for homestead purpose :

Provided—

(i) the person, including his lawful predecessor(s) in-interest, was in possession of such land for a period of at least three years prior to the appointed date, i.e., 26th February, 2009; and has submitted or submits a valid application for such settlement within a period of six months from the date of publication of Orissa Government Land Settlement (Amendment) Rules, 2009 or within such further period as may be appointed by a notification published in the Official Gazette from time to time; and

(ii) the land has been used for homestead purpose.

2. Submission of Application—The eligible persons shall submit application, in writing, in Form II-A alongwith attested true copies of all documents if any, in support of their claim to the Tahasildar concerned in whose area of jurisdiction the land is situated.

3. Procedure on receipt of application—

(i) The Tahasildar shall initiate a case record on an application made in Form II-A by the occupant of such land and make a detailed enquiry as regards possession of such land, eligibility of the applicant, purpose for which land is being used, actual extent of land under possession of the applicant and such other aspects as may be necessary for considering the claim for settlement of such land;

(ii) On the basis of such enquiry the Tahasildar shall prepare necessary map with plotting of land under possession and shall publish proclamation inviting objection for settlement of the land with the applicant(s) in the manner provided in sub-rule (5) of Rule 5 giving 30 days time to file objections.

(iii) Where the objection have been received within the period specified in clause (iii) of this sub-rule, the Tahasildar shall dispose of the same after notice to the concerned parties giving an opportunity of being heard to all such parties. The onus of adducing evidence in

support of the claim shall lie with the applicant. In all the cases, including the cases where the name of the applicant has already been recorded in the present settlement record in “Gharabari” or “Pattadar” status, it shall be ascertained by verification that the land was recorded in the Sabik record as Gramkantha Paramboke or Abadi or Nazul or Khasmahal land, as the case may be, before the settlement is made. In cases, where Sabik records are not available, the Tahasildar shall certify that the Sabik records are not available and shall proceed with settlement, if otherwise found eligible.

(iv) The Tahasildar, after conducting field verification and verification of records, shall settle the land with the applicant(s) found to be in actual possession of the land if he/she is otherwise eligible, for homestead purpose.

(v) The Tahasildar shall, as per delegation of powers, either approve the settlement, or, submit the case record to the Sub-Collector for confirmation of such settlement. While submitting the case record, all proposals of that particular village shall have to be processed together, as far as possible, taking the village as one unit. While sending proposals to the Sub-Collector, the Tahasildar shall also append a certificate in the case record to the effect that he has verified both Sabik and Hal Record of Rights and found that the subject land qualifies for action under the Act and these rules. In cases where Sabik records are not available, the Tahasildar shall certify that Sabik records are not available and shall conduct the verification on the basis of Hal records.

(vi) The Sub-Collector shall either dispose the case or submit the case records to the Collector for settlement as the case may be.

4. Purpose for which land may be settled—(a) Land shall be settled only for homestead purpose under this Schedule.

(b) Land used or essentially required for community purpose such as, but not limited to, roads, playground, public places of worship, government institutional buildings shall not be settled under Schedule V of these rules and shall be recorded in ‘rakhit’ khata as such.

5. Powers to settle land—(a) The settlement of land under these rules shall be made by the Tahasildar where the land is used for homestead purpose and the total extent of land with the applicant does not exceed 4 decimals (one-twenty fifth of an acre) and is situated in rural area.

(b) Cases involving area of land used for homestead purposes will be approved by the Sub-Collector if the extent of land is upto four decimals (one-twenty fifth of an acre) in urban area or exceeds four decimals but does not exceed ten decimals (one-tenth of an acre) in rural area.

(c) Prior approval of Collector shall be obtained, through Sub-Collector, for the settlement of land under this Schedule if the extent of land exceeds the area mentioned in sub-item (b) above.

(d) The settlement of land under this Schedule shall be made on raiyati basis on payment of salami and rent.

(e) The Sub-Collectors will verify at least ten per cent of the cases sanctioned by the Tahasildars and Collectors shall verify at least 5% of the cases sanctioned by the Sub-Collectors, to be selected on a random basis.

6. Payment of amount and arrear ground rent and cess—(a) Amount at the following rates shall be payable as Salami for settlement of Gramakantha Paramboke, Abadi (Basti), Khasmahal and Nazul land under these rules :

| Extent | Amount Payable for settlement |
|---|---------------------------------|
| (i) Urban—upto 4 decimal | 3 times the normal annual rent |
| (ii) Rural—upto 10 decimal | - ditto - |
| (iii) Extent above 4 decimals but not exceeding 10 decimals in urban areas. | 10 times the normal annual rent |
| (iv) Extent above 10 decimals in rural as well as urban areas. | 15 times the normal annual rent |

(b) The unpaid arrear rent for last ten years will also be recovered in case of Khasmahal and Nazul land before settlement of such land to an applicant.

(c) The applicants will be liable to pay land revenue as per relevant laws from the date of settlement of land on raiyati basis.

(d) The 'normal rent' for the purpose of this Schedule means the rent applicable for similar category of lands in the adjoining area in the village.

(e) For the purpose of determining the amount payable under sub-item (a), the purpose of land shall be deemed to be homestead if not more than 30% of the constructed area on land applied for or 250 square feet of constructed area, whichever is less, is being used for non-residential purpose, provided that the entire remaining portion is being used for homestead purpose by the applicant. Homestead purpose will mean residential dwelling unit used for own residence by the applicant and his family members or rented out on monthly rental basis to a tenant for residential use but shall exclude renting out of residential building as a hotel, guest house. In case of any doubt whether the particular building is used for homestead purpose or not, the Tahasildar shall prepare a report on the factual aspects of the use in the case record and the matter will be referred to the Collector for final decision.

(f) For the purpose of this Schedule, one decimal area is area equal to one-hundredth of an acre.

7. Miscellaneous provisions—

(a) Applications, if any, received before the coming into force of the Orissa Government Land Settlement (Amendment) Rules, 2009 for settlement of Gramakantha Paramboke, Abadi (Basti), Khasmahal or Nazul lands shall be deemed to be applications received under the provisions of these rules and shall be disposed of in accordance with these rules notwithstanding that the applications have not been made in Form II-A.

(b) Notwithstanding anything contained in item 5 and 6 and Schedule VI of these rules, persons who have been granted lease of Gramakantha Paramboke, Abadi (Basti), Khasmahal and Nazul land shall be eligible for settlement of land on raiyati basis in accordance to provisions of these rules.

(c) Government shall have powers to issue executive instructions not inconsistent with the provisions of these rules to the authorities entrusted with the responsibility for settlement of land under these rules.

4. In the said rules, after Form –II, the following form shall be inserted, namely :—

FORM II-A

Application for Settlement of Gramakantha Paramboke, Abadi (Basti), Nazul and Khasmahal land

To

The Tahasildar

1. Name of applicant :
2. Age :
3. Father's Name :
4. Present Residential Address :
5. Permanent Home Address :
6. Caste (ST/SC/OBC/Others) :
7. Particulars of land applied for :
 - (i) Village/Urban Area :
 - (ii) Mouza :
 - (iii) Khatian No. :
 - (iv) Plot No. :
 - (v) Boundary : (East/West/North/South)
8. Extent of land in possession of the applicant : Acre-----decimal
9. Purpose for which land is utilized :
10. Type of land :
Gramakantha Paramboke/Abadi (Basti)/Khasmahal/Nazul
11. Year from which the applicant is in possession of land :
12. Whether inherited/obtained on lease or sub-lease/purchased
13. List of documents in support of possession, if any :
(Lease/sub-lease/sale deed/copy of RoR/any other, please specify)

Signature of the Applicant

5. In the said rules, in Schedule-III against Serial No. 4, relating to the document under Column (2), the words and figures “covering 500 Acres and above” appearing therein, shall be deleted.

[No. 46165—GE(GL)S-5/2009-R. & D.M..]

By order of the Governor

R. K. SHARMA

Commissioner-*cum*-Secretary to Government